

Mar 21 06 06:35p TEP Comm

82610880

p. 2

RECEIVED
CENTRAL FAX CENTER
JUN 08 2006

Case 035372-03

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Jon C. Taenzer, et al.
SERIAL NO.: 10/757,796
FILING DATE: January 13, 2004
TITLE: Earset Assembly
EXAMINER: Harvey, Dionne
ART UNIT: 2643

CERTIFICATE OF MAILING

I hereby certify that this paper is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop Amendment Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450, on the date printed below:

Date: 6-03-06Name: Kathleen K. Muto

Kathleen K. Muto

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

SECOND DECLARATION OF JON C. TAENZER**UNDER 37 CFR §1.131**

I, Jon C. Taenzer declare as follows:

1. I am an inventor of the U.S. patent application identified above. I make this Second Declaration in support of the application.
2. I was involved in the conception and reduction to practice of the invention disclosed in the application and claimed in at least the independent claims which are now in the application, namely Claims 1, 14, and 24.
3. I have signed a Declaration under 37 CFR §1.131 on June 15, 2005, and the Declaration has been filed in this application.

BEST AVAILABLE COPY

Mar 21 06 06:36p STEP Comm

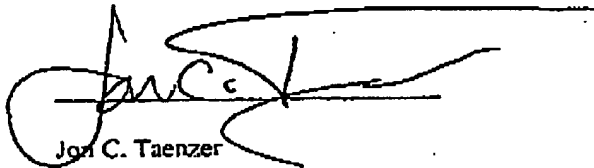
02610880

p. 3

Case 035372-03

4. Attached to this Second Declaration are two drawings which I have labeled Fig. 1 and Fig. 2. Fig. 1 shows the Model 880 earpiece which I refer to in my June 15, 2005 declaration. The drawing I have labeled Fig. 1 was taken from the computer files of my employer STEP Communications and was created prior to September 17, 2002. Fig. 2 shows the Model 880 earpiece, and I have added labels indicating components which correspond to the elements of the pending independent claims, Claim 1, Claim 14 and Claim 24, of the patent application identified above.

I, the undersigned, declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing therefrom.



Jon C. Taenzer

March 13, 2006

Date

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Jon C. Taenzer
SERIAL NO.: 10/757,796
FILING DATE: 01/13/2004
TITLE: EARSET ASSEMBLY
EXAMINER: Harvey, Dionne
ART UNIT: 2646

RECEIVED
CENTRAL FAX CENTER
JUN 08 2006

CERTIFICATE OF MAILING

I hereby certify that this paper is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date printed below:

Date:

4-3-06

Name:

Kathleen K. Muto

Kathleen K. Muto

COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

PATENT PRACTITIONERS TO BE MADE OF RECORD
Pursuant to 37 C.F.R. § 1.32(c)(3)

Please replace the patent practitioners made of record in the Declaration and Power of Attorney, and Patent Practitioners To Be Made of Record, both filed on November 22, 2004 (copies attached), with the following ten patent practitioners as being of record in the application to which the power of attorney is directed:

David B. Ritchie, Reg. No. 31,562
Marc S. Hanish, Reg. No. 42,626
John P. Schaub, Reg. No. 42,125
Hal J. Bohner, Reg. No. 27,856
Masako Ando, Ltd. Rec. L0016

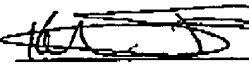
Robert E. Krebs, Reg. No. 25,885
Khaled Shami, Reg. No. 38,745
Steven J. Robbins, Reg. No. 40,299
Suvashis Bhattacharya, Reg. No. 46,554
Thomas Van Zandt, Reg. No. 43,219

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to Deposit Account No. 50-1698.

Respectfully submitted,

THELEN REID & PRIEST LLP

Dated: April 3, 2006


Khaled Shami
Reg. No. 38,745

THELEN REID & PRIEST LLP
P.O. Box 640640
San Jose, CA 95164-0640
Telephone: (408) 292-5800
Fax: (408) 287-8040

Docket No. 035372-003

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

COPY

APPLICANT: Jon C. Taenzer et al
SERIAL NO.: 10/757,796
FILING DATE: January 13, 2004
TITLE: Earset Assembly
EXAMINER: Unassigned
ART UNIT: Unassigned

MAIL STOP: MP
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PATENT PRACTITIONERS TO BE MADE OF RECORD

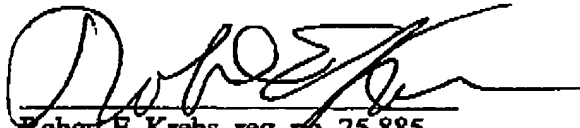
Please recognize the following ten patent practitioners in the attached Declaration and Power of Attorney as being of record in the application or patent to which the power of attorney is directed:

Robert E. Krebs, Reg. No. 25,885
Marc S. Hanish, Reg. No. 42,626
John P. Schaub, Reg. No. 42,125
Thierry K. Lo, Reg. No. 49,097
Masako Ando, (37 C.F.R. §10.9 (b))

Yukiko Maekawa, Reg. No. 50,307
Khaled Shami, Reg. No. 38,745
Adrienne Yeung, Reg. No. 44,000
William Winters, Reg. No. 42,232
Hal J. Bohner, Reg. No. 27,856

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to Deposit Account No. 50-1698.

Respectfully submitted,
THELEN REID & PRIEST LLP


Robert E. Krebs, reg. no. 25,885

Dated: November 22, 2004

THELEN REID & PRIEST LLP
P.O. Box 640640
San Jose, CA 95164-0640
Telephone: (408) 292-5800
Fax: (408) 287-8040

09/03/2004 15:05

488

STEP COMMUNI

PAGE 02

Docket No. 035372-003

DECLARATION & POWER OF ATTORNEY**COPY**

As a below-named inventor, I hereby declare that:

My correct city and state of residence, my post office address and my citizenship are stated below next to my name.

I believe myself to be the original, first and sole inventor (if only one name is listed below) or an original and first joint inventor (if more than one name is listed below) of the subject matter which is disclosed and claimed and for which a patent is sought on the invention entitled:

"Earsel Assembly"

The specification of this subject matter:

☐ is attached hereto.☒ was filed on January 13, 2004;

was assigned serial No. 10757,796;

which was amended on _____;

I hereby state that I have reviewed and understand the contents of the above-identified patent application, including the claims, as amended by any amendment(s) referred to above. I do not know and do not believe that the claimed invention was ever known or used in the United States of America before my invention thereof, or patented or described in any printed publication in any country before my invention thereof or more than one year prior to this application, that the same was not in public use or on sale in the United States of America more than one year prior to this application, and that the invention has not been patented or made the subject of an inventor's certificate issued before the date of this application in any country foreign to the United States of America on an application filed by me or my legal representatives or assigns more than twelve months (for a utility patent application) or six months (for a design patent application) prior to this application.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with 37 C.F.R. §1.56(a).

I hereby claim foreign priority benefits under 35 U.S.C. §119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed.

PRIOR FOREIGN APPLICATION(S)**Priority Claimed**

Number	Country	Month/Day/Year Filed	Yes	No
Number	Country	Month/Day/Year Filed	Yes	No
Number	Country	Month/Day/Year Filed	Yes	No

09/03/2004 15:06

4081

STEP COMMUNI

PAGE 03

Docket No. 035372-003

PROVISIONAL PATENT APPLICATION(S)

I hereby claim the benefit under 35 U.S.C. §119(e) of any United States provisional application(s) listed below:

Application Number

Filing Date

PARENT PATENT APPLICATION(S)

I hereby claim the benefit under 35 U.S.C. §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in these prior United States application(s) in the manner provided by 35 U.S.C. §112, I acknowledge the duty to disclose material information as defined in 37 C.F.R. §1.56(a) which occurred between the filing date of the prior application(s) and the national or PCT international filing date of this application.

Application No.

Filing Date

Status (Issued, Pending, Abandoned)

Application No.

Filing Date

Status (Issued, Pending, Abandoned)

Application No.

Filing Date

Status (Issued, Pending, Abandoned)

Application No.

Filing Date

Status (Issued, Pending, Abandoned)

I hereby appoint David B. Ritchie, Registration No. 31,562; Robert E. Krebs, Registration No. 25,885; Marc S. Hanish, Registration No. 42,626; John P. Schaub, Registration No. 42,125; Adrienne Yeung, Registration No. 44,000; Steven J. Robbins, Registration No. 40,289; Thierry K. Lo, Registration No. 49,097; William Samuel Niece, Registration No. 47,824; Khaled Shari Registration No. 36,745; William E. Winters, Registration No. 42,232; Masako Ando, (37 C.F.R. §10.9 (b)); Yukiko Maekawa, Registration No. 50,307 and John Klaas Uilkema, Registration No. 20,282; Becky L. Troutman, Registration No. 36,703; Hal J. Bohner, Registration No. 27,856; as attorneys of record with full power of substitution and revocation, to prosecute this application and transact all business in the United States Patent and Trademark Office connected therewith. If this application is assigned by me I agree and understand that the above-named attorneys will represent the assignee and not me.

Please send all correspondence and direct all telephone calls to:

Robert E. Krebs
Thelen Reid & Priest LLP
P.O. Box 640640
San Jose, CA 95164-0640
Telephone: (408) 292-5800
Facsimile: (408) 287-8040

I, the undersigned, declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing therefrom.

09/03/2004 15:05

408

STEP COMMUNI

PAGE 84

Docket No. 035372-003

FULL NAME OF FIRST Name
INVENTOR 1

MIDDLE Initial(s)

LAST Name

Jon
RESIDENCE AND City
CITIZENSHIP

C.
State or Foreign Country

Taenzler
Country of Citizenship

Los Altos
POST OFFICE Number and Street
ADDRESS

CA
City

USA
State or Country

Zip Code

888 Laverne Way

Los Altos

CA

94022

FULL NAME OF Second Name
INVENTOR 2

MIDDLE Initial(s)

LAST Name

Thanh
RESIDENCE AND City
CITIZENSHIP

Q.
State or Foreign Country

Nguyen
Country of Citizenship

Irving
POST OFFICE Number and Street
ADDRESS

TX
City

USA
State or Country

Zip Code

1140 Lakeway Dr.

Irving

TX

75060

FULL NAME OF Third Name
INVENTOR 3

MIDDLE Initial(s)

LAST Name

Donald
RESIDENCE AND City
CITIZENSHIP

R.
State or Foreign Country

Saleh
Country of Citizenship

POST OFFICE Number and Street
ADDRESS

City

USA
State or Country

Zip Code

I further declare that all statements made herein of my own knowledge are true and that all statements made upon information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under

Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Jon C. Taenzler
Jon C. Taenzler

Sept. 2, 2004
Date

Thanh Q. Nguyen

Date

Donald R. Saleh

Date

11/22/2004 11:51 488 3625

STEP COMMUNICATIONS

PAGE 03

Docket No. 035372-003

FULL NAME OF FIRST Name INVENTOR 1	MIDDLE Initial(s)	LAST Name
Jon	C.	Taenzer
RESIDENCE AND CITY	State or Foreign Country	Country of Citizenship
Los Altos	CA	USA
POST OFFICE ADDRESS	City	State or Country Zip Code
888 Laverne Way	Los Altos	CA 94022
FULL NAME OF Second Name INVENTOR 2	MIDDLE Initial(s)	LAST Name
Thanh	Q.	Nguyen
RESIDENCE AND CITY	State or Foreign Country	Country of Citizenship
Irving	TX	USA
POST OFFICE ADDRESS	City	State or Country Zip Code
1140 Lakeway Dr.	Irving	TX 75060
FULL NAME OF Third Name INVENTOR 3	MIDDLE Initial(s)	LAST Name
Donald	R.	Salah
RESIDENCE AND CITY	State or Foreign Country	Country of Citizenship
		USA
POST OFFICE ADDRESS	City	State or Country Zip Code

I further declare that all statements made herein of my own knowledge are true and that all statements made upon information and belief are believed to be true; and further that those statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under

Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Jon C. Taenzer

Date



11/19/04

Thanh Q. Nguyen

Date

Donald R. Salah

Date

3

11/22/2004 14:15 408 625
11-22-04: 2:06PM:RAY FLOCK COMPANY

STEP COMMUNICATIONS

PAGE 02

Docket No. 035372-003

FULL NAME OF FIRST Name	MIDDLE Initial(s)	LAST Name
INVENTOR 1		
Jon	C.	Taenzler
RESIDENCE AND	State or Foreign Country	Country of Citizenship
CITIZENSHIP		
Los Angeles	CA	USA
POST OFFICE	City	State or Country
ADDRESS		Zip Code
885 Levee Way	Los Angeles	CA 94022
FULL NAME OF Second Name	MIDDLE Initial(s)	LAST Name
INVENTOR 2		
Thanh	Q.	Nguyen
RESIDENCE AND	State or Foreign Country	Country of Citizenship
CITIZENSHIP		
Irvine	TX	USA
POST OFFICE	City	State or Country
ADDRESS		Zip Code
1140 Lakeway Dr.	Irvine	TX 75060
FULL NAME OF Third Name	MIDDLE Initial(s)	LAST Name
INVENTOR 3		
Donald	R.	Saleh
RESIDENCE AND	State or Foreign Country	Country of Citizenship
CITIZENSHIP		
5834 Santa Lucia Ct	Ventura	USA 93003
POST OFFICE	City	State or Country
ADDRESS		Zip Code

I further declare that all statements made herein of my own knowledge are true and that all statements made upon information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under

Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Jon C. Taenzler

Date

Thanh Q. Nguyen

Date

Donald R. Saleh

Date

11-22-04

09/03/2004 15:05

488 5

STEP COMMUN 5

PAGE 85

Docket No. 035372-003

37 C.F.R. §1.56

Duty to disclose information material to patentability

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) Prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) The closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or
- (2) It refutes, or is inconsistent with, a position the applicant takes in:
 - (i) Opposing an argument of unpatentability relied on by the Office, or
 - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

- (1) Each inventor named in the application;
- (2) Each attorney or agent who prepares or prosecutes the application; and
- (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.

RECEIVED
CENTRAL FAX CENTER

JUN 08 2006

COPY

DOCKETED
DEC - 8 2004

Serial/Patent No.: 10/757,796

Filing/Issue Date: 1/13/04

Applicant: Jon C. Taenzer et al

Title: Earset Assembly

TRP Docket No.: 035372-003

Atty/Sec'y Initials: REK/HB/av

Date Mailed: 11/22/04

Docket Due Date: 11/22/04

The following has been received in the U.S. Patent & Trademark Office on the date stamped hereon:

- | | |
|--|--|
| <input type="checkbox"/> Amendment/Response (____ pgs.) | <input type="checkbox"/> IDS & PTO 1449 (____ pgs.) |
| <input type="checkbox"/> Appeal Brief (____ pgs.) (in triplicate) | <input type="checkbox"/> ____ Pieces of Prior Art Enclosed |
| <input type="checkbox"/> Application - Utility (____ pgs. with cover & abstract) | <input type="checkbox"/> Issue Fee Transmittal |
| <input type="checkbox"/> Application - Rule 1.53(b) Continuation (____ pgs.) | <input type="checkbox"/> Submission of Formal Drawings: _____ # of sheets includes _____ figures |
| <input type="checkbox"/> Application - Rule 1.53(b) Division (____ pgs.) | <input type="checkbox"/> Notice of Appeal |
| <input type="checkbox"/> Application - Rule 1.53(b) CIP (____ pgs.) | <input type="checkbox"/> Postcard |
| <input type="checkbox"/> Application - Rule 1.53(d) CPA (____ pgs.) | <input type="checkbox"/> Preliminary Amendment (____ pgs.) |
| <input type="checkbox"/> Application - PCT (____ pgs.) | <input type="checkbox"/> Reply Brief (____ pgs.) |
| <input type="checkbox"/> Application - Provisional (____ pgs.) | <input type="checkbox"/> Req and Cert. Not to Publish - Rule 1.213 |
| <input type="checkbox"/> Assignment and Cover Sheet | <input type="checkbox"/> Request for Continued Examination (RCE) (____ pgs.) |
| <input type="checkbox"/> Certificate of Correction | <input checked="" type="checkbox"/> Request for Extension of Time <u>2</u> Month(s) |
| <input checked="" type="checkbox"/> Certificate of Mailing | <input checked="" type="checkbox"/> Response to Notice to File Missing Parts |
| <input type="checkbox"/> Declaration & POA (____ pgs.) | <input checked="" type="checkbox"/> Copy of PTO Notice to File Missing Parts |
| <input checked="" type="checkbox"/> Fee Transmittal <i>IN DUPLICATE</i> | <input checked="" type="checkbox"/> Transmittal Letter (original & copy) |
| <input type="checkbox"/> Drawings (informal): _____ # of sheets includes _____ figures | <input type="checkbox"/> Express Mail No.: _____ |
| <input checked="" type="checkbox"/> Other: Patent Practitioner to be Made of Record. | <input type="checkbox"/> Check(s) \$ _____ |
| | <input type="checkbox"/> Deposit Acct. No. 50-1698 \$ _____ |
| | Patent Code: _____ |
| | Client/Matter # _____ |

NOV 26 2004

**This Page is Inserted by IFW Indexing and Scanning
Operations and is not part of the Official Record**

BEST AVAILABLE IMAGES

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images include but are not limited to the items checked:

- ☐ **BLACK BORDERS**
- ☐ **IMAGE CUT OFF AT TOP, BOTTOM OR SIDES**
- ☐ **FADED TEXT OR DRAWING**
- ☐ **BLURRED OR ILLEGIBLE TEXT OR DRAWING**
- ☐ **SKEWED/SLANTED IMAGES**
- ☐ **COLOR OR BLACK AND WHITE PHOTOGRAPHS**
- ☐ **GRAY SCALE DOCUMENTS**
- ☒ **LINES OR MARKS ON ORIGINAL DOCUMENT**
- ☐ **REFERENCE(S) OR EXHIBIT(S) SUBMITTED ARE POOR QUALITY**
- ☐ **OTHER:** _____

IMAGES ARE BEST AVAILABLE COPY.

As rescanning these documents will not correct the image problems checked, please do not report these problems to the IFW Image Problem Mailbox.